

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 596

(Senator Brochin, *et al.*)

Judicial Proceedings

Courts - Nonprofit Associations - Standing to Participate in Governmental Proceedings

This bill authorizes a “nonprofit association,” in its own name, to institute, defend, intervene, or participate in: (1) a judicial, administrative, or other governmental proceeding; or (2) any form of alternative dispute resolution. Under the bill, a nonprofit association may assert a claim in its name on behalf of its members if: (1) at least one of the association’s members has standing to assert a claim; (2) the interests that the association seeks to protect are germane to its purpose; and (3) neither the claim asserted nor the relief requested requires a member’s participation. Prior to participating in an action, an unincorporated association must designate a resident agent and properly file the agent’s consent to serve as a resident agent with the State Department of Assessments and Taxation. The bill may not be construed to change existing standards for review of a zoning action of a local legislative body or grant standing to assert a claim that one of its members may not assert individually. The bill’s provisions must be liberally construed.

Fiscal Summary

State Effect: Since the number of cases and/or appeals that might be brought because of the bill cannot be accurately estimated, any effect on the workload of the Judiciary cannot be reliably estimated at this time, but could be significant and require additional resources.

Local Effect: Since the number of cases that might be brought because of the bill cannot be accurately estimated, any effect on the workload of the circuit courts cannot be reliably estimated, but could be significant in a particular county.

Small Business Effect: Potential minimal.

Analysis

Current Law: Generally, a party to a civil action must be authorized to participate in the action, either by statute or by having common law “standing.” Standing means that a party has a sufficient stake in a controversy to be able to obtain judicial resolution of that controversy. The question is whether the plaintiff is the proper party to the case and not about the merits of the case. The Court of Appeals has held that an association lacks standing to sue where it has no property interest of its own, distinct from that of its individual members. *Citizens Planning & Housing Ass’n. v. County Executive*, 273 Md. 333 (1974). In *Medical Waste Ass’n. v. Maryland Waste Coalition*, 327 Md. 596 (1992), the Court of Appeals stated that if an individual or organization is seeking to redress a public wrong, the individual or organization has no standing unless the wrong suffered is different in character and kind from that suffered by the general public.

Additional Information

Prior Introductions: Similar bills were introduced in 2007. HB 31 received an unfavorable report from the House Judiciary Committee, and SB 65 received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: HB 1341 (Delegate Morhaim, *et al.*) – Judiciary.

Information Source(s): State Department of Assessments and Taxation, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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mcp/jr

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